

THE NUMBER AND FORM IN WHICH THE QUESTION WILL  
APPEAR UPON THE OFFICIAL BALLOT AT THE  
GENERAL ELECTION, NOVEMBER 3, 1936,  
IS AS FOLLOWS:

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## Referendum Measure No. 36

"AN ACT TO AMEND SECTION 5714, REVISED CODES OF  
MONTANA, 1921, RELATING TO MARRIAGE LICENSE AND  
DEFINING REFUSAL OF SAME; AND PROVIDING FOR CER-  
TIFICATES OF HEALTH FOR APPLICANTS; ITS CONTENTS,  
AND WHO SHALL EXECUTE SAME."

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For the above entitled Act.

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Against the above entitled Act.

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CHAPTER 72  
SUBSTITUTE FOR HOUSE BILL NO. 66

An Act to Amend Section 5714, Revised Codes of Montana, 1921, Relating to Marriage License and Defining Refusal of Same; and Providing For Certificates of Health for Applicants; Its Contents, and Who Shall Execute Same.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. That Section 5714, Revised Codes of Montana, 1921, be, and the same is hereby amended to read as follows:

"Section 5714. LICENSE—WHEN REFUSED. If, on such testimony being given, it shall appear that either of the parties is legally incompetent to enter into such a contract, or there is an impediment in the way, or if either party is a minor, and the consent mentioned in Section 5712 shall not be given, or if either party is under the influence of any intoxicating liquor, or narcotic drug, or if the certificates of health for applicants for license is not presented, the said Clerk of the District Court shall refuse to grant a license."

Section 2. CERTIFICATES OF HEALTH FOR APPLICANTS FOR LICENSE. No license to marry shall be issued by the Clerk of the District Court of any county to an applicant therefor except upon the presentation by the said applicant of health certificates for both parties, executed within not less than three nor more than seven days from the time of the presentation of said certificates to the Clerk of the District Court as hereinafter provided, showing the non-existence of any venereal disease as determined by Wasserman Tests; the non-existence of tuberculosis in the infectious stages; and, or any other infectious or communicable or inherent disease; and, or any disease leading to congenital abnormalities in offspring; and that the applicant appears to be of sound mind.

Section 3. CERTIFICATES EXECUTED BY WHAT PHYSICIAN. The certificates referred to in the preceding section shall be executed by a reputable physician licensed to practice medicine and surgery in the state and who shall reside within the county in which said license to marry shall be applied for; or by the county health officer of such county. In the event any physician shall fail to properly examine any applicant for such a certificate before affixing his or her signature thereto or shall falsify any statement thereon, he or she shall be guilty of a felony and shall be punishable by an immediate revocation of license to practice the medical and surgical profession in the State of Montana and no new license shall be issued. This penalty shall be inflicted only after such violator has been adjudged guilty of such violation by a Court of Competent Jurisdiction.

Section 4. PERIOD OF DELAY FROM DATE OF APPLICATION TO DATE OF LICENSE ISSUANCE. License to marry shall not be issued by the Clerk of the District Court until the third day following the receipt of application therefor accompanied by certificates of health as required in the provisions of this Act.

Section 5. All Acts and parts of Acts in conflict herewith are hereby repealed

Approved March 2, 1935.



THE NUMBER AND FORM IN WHICH THE QUESTION WILL  
APPEAR UPON THE OFFICIAL BALLOT AT THE  
GENERAL ELECTION, NOVEMBER 3, 1936,  
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## Referendum Measure No. 37

"AN ACT TO PROVIDE FOR STATE INSURANCE OF PUBLIC BUILDINGS AND CONTENTS; TO PROVIDE FOR THE VALUATION THEREOF; TO PROVIDE FOR THE DUTIES OF PUBLIC OFFICERS IN CONNECTION THEREWITH; TO PROVIDE FOR THE LEVYING OF ASSESSMENT PREMIUMS, FOR THE INVESTMENT AND DISTRIBUTION OF THE INSURANCE FUND, AND FOR THE PAYMENT OF LOSSES; TO PREVENT ANY OTHER MANNER OF INSURING PUBLIC PROPERTY, EXCEPT AS HEREIN PROVIDED; AND TO PROVIDE PENALTIES FOR THE VIOLATION OF THIS ACT."

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FOR THE ABOVE ENTITLED ACT.

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AGAINST THE ABOVE ENTITLED ACT.

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SENATE SUBSTITUTE FOR SENATE BILL NO. 22.

AN ACT TO PROVIDE FOR STATE INSURANCE OF PUBLIC BUILDINGS AND CONTENTS; TO PROVIDE FOR THE VALUATION THEREOF; TO PROVIDE FOR THE DUTIES OF PUBLIC OFFICERS IN CONNECTION THEREWITH; TO PROVIDE FOR THE LEVYING OF ASSESSMENT PREMIUMS, FOR THE INVESTMENT AND DISTRIBUTION OF THE INSURANCE FUND, AND FOR THE PAYMENT OF LOSSES; TO PREVENT ANY OTHER MANNER OF INSURING PUBLIC PROPERTY, EXCEPT AS HEREIN PROVIDED; AND TO PROVIDE PENALTIES FOR THE VIOLATION OF THIS ACT.

Be It Enacted by the Legislative Assembly of the State of Montana:

Section 1. That all public buildings of this State and of each and every political subdivision thereof, and the contents of all such buildings, except as hereinafter provided, shall be insured by the State against all direct loss by fire, lightning, tornado, wind-storm, cyclone, hail, explosion, flood and water damage, under the provisions of this Act, which said insurance shall be provided for, determined and paid for as provided by this Act. Provided, however, that officers and authorities having charge of buildings and contents above described may insure against earthquakes and/or other perils not above enumerated in this section.

Section 2. That the State Auditor and Ex-Officio Commissioner of Insurance shall keep a book properly indexed wherein he shall record the valuation of all property insured under this Act, and he shall have prepared such blank forms for the report of valuation and relative hazard of all such property, for losses sustained, and for all other purposes necessary, proper and incidental to the effective operation and enforcement of this Act, and furnish such blank forms to all officers respectively, having charge of all public property insured under this Act. He shall make such rules and regulations as he may from time to time find practicable, necessary and beneficial for the conduct of the business of this department of insurance, not inconsistent with the provisions of this Act.

Section 3. That the valuation of all school houses and the contents thereof, of all school districts, shall be made by the Board of Trustees of such school districts. That the valuation of all county high school buildings and the contents thereof shall be made by the county high school boards having charge thereof. That the valuation of all public buildings owned by the counties of this State (excepting county high schools) and the contents thereof, shall be determined by the Board of County Commissioners of the county wherein the property is situated. That the valuation of all public buildings including public libraries owned by all cities and incorporated towns in the State, and the contents of such buildings, shall be determined by the Mayor and the Aldermen of the city or town wherein said property is situated. That the valuation of all public buildings owned by the State, subject to this Act, and also all other public buildings in the State not enumerated in this Act, together with the contents of all such buildings, shall be determined by the State Board of Examiners.

That the valuation provided for in this Act, shall not include the value of building sites, but shall be the fair and reasonable value of such public buildings and the contents thereof.

Section 4. That the valuations required by this Act shall be made by said officers, respectively, before any existing insurance policy expires, and at least once every three (3) years thereafter; and in case of the erection of new buildings after this Act becomes operative, the proper officer or officers must within ten (10) days after the completion of such new building make the valuation thereof and the valuation of the contents as and when installed. All valuations required under this Act shall be made under oath on the forms and in the manner to be prescribed by the State Auditor and Ex-Officio Commissioner of Insurance, and duly acknowledged and forwarded to him. Such valuation so made shall be the fair and reasonable value of all public property insured for the purposes of insurance under this Act.

Section 5. There shall be paid into the State Treasury by the respective Boards and officers having charge of the property insured under this Act, out of the funds from which insurance premiums have heretofore been paid, at the time such property is listed for insurance, as hereinafter provided, or within thirty (30) days thereafter, the amount of the premium for three years' insurance at the prevailing and commonly accepted insurance rate, as determined by the State Auditor and Ex-officio Commissioner of Insurance which said rate may be adjusted by the State Auditor and Ex-officio Commissioner of Insurance upon report of the Fire Marshal of any change in perils and

exposures or error in classification. Insurance shall be written for three years. Upon special request to the Board of Examiners they may at their option budget the payment over a three year period. Cancellation for reasonable cause or upon advice of the Fire Marshal shall be allowed and adjusted pro rata. The final and total amount of insurance on any single item shall in due time be adjusted to the valuation as fixed by this Act. All policies under this Act shall be numbered serially.

Section 6. On the first business day of each month the State Auditor and Ex-officio Commissioner of Insurance and the State Treasurer shall pay from the Insurance Fund into the Fire Marshal's Fund one per cent (1%) of the receipts for the preceding month.

Section 7. At the end of each fiscal year the State Auditor and Ex-officio Commissioner of Insurance shall issue and deliver to the Treasurer of every city and town having a Fireman's Disability Fund, as created by Section 5117, Revised Codes of Montana, 1921, as amended by Chapter 58, Session Laws of the Twentieth Legislative Assembly, 1927, and for the benefit of said fund, his warrant, drawn on said insurance fund created by this Act, for an amount to be computed as follows: three per cent (3%) of the total moneys collected from all state insurance of public buildings in all cities and towns in the State of Montana having a Fireman's Disability Fund, shall be divided between the respective Fireman's Disability Funds of the several cities and towns in accordance with the same method of division now provided by Chapter 127 of the Session Acts of Montana of 1933.

Section 8. When the fund is found to exceed One Million Dollars (\$1,000,000.00), then no more premiums shall be assessed until it becomes depleted to less than Seven Hundred Thousand Dollars (\$700,000.00); whereupon assessment premiums, beginning after the last numbered policy paid, shall be levied in serial order until the fund again exceeds One Million Dollars (\$1,000,000.00).

Section 9. The State Board of Examiners must reinsure or purchase excess insurance in a reliable insurance company or companies such portion of their insurance liability as is commensurate with the principles of safe underwriting, and shall prescribe such rules and regulations as may be necessary in placing and handling this reinsurance and/or excess insurance. The cost of the reinsurance is to be paid out of the State Insurance Fund.

Section 10. Notice of premiums due shall be mailed or delivered to the proper officer, officers or Boards in charge of such property, who shall pay the same as herein provided to the State Treasurer within thirty (30) days from the date of such levy and all assessment premiums levied thereafter to maintain said Insurance Fund shall be on the basis of three years' premium for insurance purposes as hereinbefore described, such assessment premiums to be levied only when needed to replenish and maintain such insurance fund and to be paid as hereinbefore provided.

Section 11. That the State Treasurer shall receive all moneys paid to him under this Act and place same to the credit of a fund known as the State Insurance Fund, and shall pay same out on warrants drawn on such fund by the State Auditor and Ex-officio Commissioner of Insurance. The said State Insurance Fund shall be invested and administered as a part of the Montana Trust and Legacy Fund under the provisions of Chapter Seventy (70) of the 1929 Session Laws of the State of Montana. All interest and earnings obtained by the State Treasurer from such moneys shall be credited to the State Insurance Fund.

Section 12. That all losses to public buildings and the contents thereof, insured under this Act against losses by fire, lightning, tornado, windstorm, cyclone, hail, explosion, flood and water damage, shall be reported by the respective officer, officers or Boards in charge of such property to the State Auditor and Ex-officio Commissioner of Insurance and the members of the Board or officer or officers in charge of said property shall make a sworn statement of the losses sustained, the cause thereof, and such other information as the State Auditor and Ex-officio Commissioner of Insurance may direct. In case of loss the same may be determined by agreement by the State Auditor and Ex-officio Commissioner of Insurance and said Board, officer or officers; but in case they do not agree, the Governor shall name two County Assessors, neither of whom shall be from the county where the loss is incurred and they, together with the State Fire Marshal or a special Deputy Fire Marshal, shall appraise and determine the loss sustained. The traveling expenses of such appraisers shall be paid out of the State Insurance Fund.

Section 13. When a loss has been sustained and the amount thereof adjusted, the State Auditor and Ex-officio Commissioner of Insurance shall allow same by an order

made on the books of his office and shall issue a warrant in payment thereof on the State Insurance Fund, in favor of the proper officer, officers, or Board in charge of the property destroyed. The State Auditor and Ex-officio Commissioner of Insurance shall also issue warrants on the State Insurance Fund for the payment of expenses authorized under this Act for the adjustment of losses.

Section 14. Whenever any policy of insurance shall be written under this Act to insure any improvements upon real property in this State against loss as herein provided and the property insured shall be wholly destroyed, without criminal fault on the part of the insured or its assigns, the amount of insurance written in such policy shall be taken conclusively to be true value of the property insured, and the true amount of loss and measure of damages, and the payment of money as a premium for insurance shall be prima facie evidence that the party paying such insurance is the owner of the property insured: Provided, that the State Auditor and ex-officio Commissioner of Insurance may set up fraud in obtaining the policy as a defense to a suit thereon.

Section 15. The State Fire Marshal shall investigate the cause, origin and circumstances of each fire occurring to public property, and shall determine whether the fire or other loss to public property insured under this Act was the result of carelessness or design, and for such purposes shall have all the powers and perform all the duties as provided by law for the office of State Fire Marshal. Before any insurance shall be written under this Act, the Fire Marshal shall inspect all buildings subject to the terms of this Act and shall report all unnecessary and avoidable fire hazards, and such hazards shall be corrected and eliminated by the responsible Board of Officers and a sworn report of such action filed with the State Auditor and Ex-officio Commissioner of Insurance before the State Insurance upon the property becomes of force and effect. He shall also report all buildings not properly insurable by reason of low value, extreme hazard or abandonment for more than four (4) months, or because the inspection thereof is unduly expensive by reason of extreme isolation. The State Auditor and Ex-officio Commissioner of Insurance may on such report exclude such buildings from the provisions of insurance and shall collect no fees therefor.

Section 16. That it shall be unlawful for any public officer mentioned in this Act and having charge of any public building or other public property to cause same or its contents to be insured in any other manner than that provided for in this Act, and upon the expiration of insurance now in force, all such property shall be listed and become subject to the provisions of this act; and in case of loss where there shall be partial insurance on said property, the State Auditor and Ex-officio Commissioner of Insurance shall pay the State's share of the loss out of the State Insurance Fund after same shall have been duly appraised, adjusted and allowed.

Section 17. This Act shall become operative on the first day of June, 1935. The renewal on altered terms or the extension of any existing policies three months prior to the time that this Act becomes operative, without the approval of the State Auditor and Ex-officio Commissioner of Insurance shall be prima facie evidence of an intention to violate the law and such policy shall be cancelled out pro rata and state insurance shall be written for the proper amount.

Section 18. It shall be the duty of all public officers to perform the duties relative to insurance under this Act without other compensation than that allowed by law.

Section 19. Any person who violates the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be required to pay a fine of not more than Three Hundred Dollars (\$300.00) or by being imprisoned for not more than six (6) months, or by both such fine and imprisonment. The failure to file a report as required by this Act shall be prima facie evidence of violation of this Act.

Section 20. If any clause, sentence, paragraph, sub-division, section or part of this Act shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair, invalidate or nullify the remainder of this Act, but shall be confined to the clause, sentence, paragraph, sub-division, section or part immediately involved, and the remainder of this Act shall be given effect.

Section 21. All Acts and parts of Acts contrary to the provisions of this Act are hereby repealed.

Section 22. This Act shall be in force and effect from and after the first day of June, 1935.

Approved March 14, 1935.



INDEPENDENT PUBLISHING CO.  
HELENA, MONTANA

THE NUMBER AND FORM IN WHICH THE QUESTION WILL  
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## Proposed Petition for Initiative No. 38

AN ACT REQUIRING LICENSES FOR THE OPERATION, MAINTENANCE, OPENING AND ESTABLISHMENT OF STORES FOR THE MANUFACTURE AND SALE AT WHOLESALE AND RETAIL OF ALL ALCOHOLIC BEVERAGES IN MONTANA; PROVIDING FOR A LICENSE AND STAMP TAX TO BE PAID BY RETAIL AND WHOLESALE VENDORS, BOTH AS RESPECTS LICENSES ISSUED BY THE STATE, AND BY CITIES WITHIN THE STATE; AND TO LIMIT, REGULATE, AND LICENSE THE SALE OF ALL ALCOHOLIC BEVERAGES THAT MAY HEREAFTER BE MANUFACTURED, SOLD OR DISPENSED WITHIN THE STATE, AND PROVIDING FOR THE REPEAL OF CHAPTER 105, SESSION LAWS OF 1923.

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FOR STATE LIQUOR CONTROL ACT OF MONTANA.

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AGAINST STATE LIQUOR CONTROL ACT OF MONTANA.

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# STATE LIQUOR CONTROL ACT OF MONTANA INITIATED MEASURE

An act requiring licenses for the operation, maintenance, and opening and establishment of stores for the manufacture and sale at wholesale or at retail of any and all alcoholic liquors or beverages in the state of Montana; providing for a license tax and stamp tax to be paid by wholesale or retail vendors, both as respects licenses issued by the state as well as by cities within the state; providing for the appointment and distribution of fees collected, or monies earned in the administration of the law, declaring the policy of the law in the sale of alcoholic beverages; and repealing chapter 105 of the laws of 1933, and to limit, regulate, and license the manufacture and sale of any and all liquors or beverages that may hereafter be manufactured, sold or dispensed in the State of Montana.

## BE IT ENACTED BY THE PEOPLE OF THE STATE OF MONTANA:

Section 1. It is hereby declared as the policy of the State that it is necessary to regulate and control the manufacture, sale and distribution within the State, of alcoholic beverages for the purpose of fostering temperance in their consumption, and respect for, and obedience to law, and to eliminate the illicit traffic in intoxicating liquors. It is hereby declared that such policy will be best carried out by empowering the State Board of Equalization to determine where public convenience and advantage will be promoted by the issuance of licenses to traffic in alcoholic beverages. It is the purpose of this Act to carry out that policy in the public interest. The restrictions, regulations and provisions contained in this Act are enacted by the people for the protection, health, welfare and safety of the people of the State.

Section 2. This Act is divided into six parts. Part I relates relegating of powers to the State Board of Equalization to administer this Act and provides the powers, duties and functions of that Board. Part II relates to the sale of alcoholic liquor by licensed vendors; and provides for the licensing and regulation of retail and wholesale vendors. Part III accounting, taxing and the distribution of profits. Part IV relates to prohibitions, interdictions, definitions, penalties and procedure. Part V relates to the application of local option in counties of the state and the holding of elections with respect thereto. Part VI covers general and miscellaneous matters.

### PART I.

Section 3. The State Board of Equalization shall constitute the "Montana Liquor Board," and such Board shall have the powers and duties herein specified, and the administration of this Act, including the general control and the members thereof shall not receive any additional compensation for their services other than their salaries prescribed by law.

Section 4. The principal office of the Board shall be in the city of Helena. Section 5. In connection with the administration of this Act, the Board shall employ a license clerk who shall be paid monthly such salary as the Board shall prescribe. He shall attend to the issuance of licenses to wholesale and retail licensees, clubs, railways and distilleries under the provisions of this Act, and shall keep books and records of all licenses issued and the money by him collected, in such form as shall be prescribed by the State Examiner. He shall furnish a bond in such amount as the Board may require.

Section 6. The Board shall prescribe a uniform license to be issued under the provisions of this Act to wholesale and retail licensees, clubs, railways and distilleries.

Section 7. The Board shall have the following functions, duties and powers:

(1) The Board may make such regulations, not inconsistent with this Act, as to the Board seem necessary, for carrying out the provisions of this Act, and for the efficient administration thereof.

(2) Without thereby limiting the generality of the provisions contained in subsection (1) hereof, the Board shall be empowered and it is made its duty to make and promulgate regulations covering the following subjects:

(a) Prescribing the duties of the inspectors, clerks and servants of the Board, and regulating their conduct while in the discharge of their duties; The Board shall have power and authority to appoint such experts, inspectors, clerks and other employees as may be found necessary in the successful administration of this Act and to fix their salaries, remuneration and tenure of employment. The inspectors named and designated by the Board as such shall have and possess the right and authority to inspect the premises of licensees operating under this Act, and to make arrests for any violation of the provision of this Act, and in this respect are given the same powers and authority as those conferred upon sheriffs and other peace officers, provided only that their activities in searches, seizures or arrests shall be confined exclusively to violations of this Act.

(b) Prescribing, subject to this Act, the days and hours during which licensed vendors may keep their establishments open for the sale of liquor;

(c) Prescribing forms to be used for the purpose of administering this Act and the regulations made thereunder;

(d) Prescribing the nature of the proof to be furnished, and the conditions to be observed in the issuing of licenses for the sale of liquors and the issuance of duplicate licenses in lieu of those lost or destroyed; and providing for the transfer of licenses;

(e) Prescribing the manner of giving and serving notices required by this Act or the regulations thereunder;

(f) Prescribing, subject to the provisions of the Act, the conditions and qualifications necessary for the obtaining of retail and wholesale licenses, and the books and records to be kept by the licensees and the returns to be made by them, and the number of such licensed premises in any municipality, and providing for the inspection of such licensed premises;

(g) Specifying and describing the place and the manner in which liquor may be lawfully kept or stored;

(h) Governing the conduct, management and equipment of any premises licensed to sell alcoholic liquors;

(i) Subject to this Act, to make regulations respecting the sale and consumption of alcoholic liquors in licensed clubs, hotels and other places of business of licensed retail and wholesale dealers;

(j) Provide for chemical analysis of all brands of liquor sold in the state, and must send a yearly report of such to all retailers, and which must be posted publicly by the licensees in their place of business, and shall also prohibit the sale of liquor containing ingredients injurious to human health.

### PART II.

PROVIDING FOR THE SALE OF ALCOHOLIC LIQUOR BY LICENSED VENDORS; AND PROVIDING FOR THE LICENSING AND REGULATION OF THE RETAIL AND WHOLESALE SALE OF ALCOHOLIC LIQUORS UNDER THIS ACT.

#### LICENSES

Section 8. Every person who sells or offers for sale, directly or indirectly, all or any kind or class of spirituous, vinous, distilled or fermented liquors or wines containing six (6) per centum or more alcoholic content by volume at retail or wholesale either by the package or by the glass must first obtain a license therefor required by this Act, and must make the following payments thereof: In all counties which contain a population of twenty thousand (20,000) or over the annual license fee for retail establishments selling spirituous, vinous, distilled or fermented liquors or wines by the glass, bottle or package, shall pay an annual license fee of \$500.00;

In all counties which contain a population of ten thousand (10,000) to twenty thousand (20,000), the annual license fee for retail establishments selling spirituous, vinous, distilled or fermented liquors or wines by the glass, bottle or package, shall pay an annual license fee of \$400.00; in all counties which contain a population under ten thousand (10,000) the annual license fee for retail establishments selling spirituous, vinous, distilled or fermented liquors or wines by the glass, bottle or package, shall pay an annual license fee of \$300.00. All wholesale dealers selling spirituous, vinous, distilled or fermented liquors or wines within the state of Montana to regularly licensed retailers only, shall pay an annual license fee of \$1,000.00 and said wholesalers must confine their sales to original packages only, and said packages must not exceed one gallon liquid measure. The annual license fee to sell all classes of spirituous, vinous, distilled or fermented liquors or wines by the glass only upon railroad cars belonging to any railroad company operating a railway system shall be \$300.00 for any such railway system; and for all other vehicles the annual license fee shall be \$500.00. Every distiller, manufacturer or rectifier of spirituous liquors, must pay a license of \$1,000.00. Any club desiring to sell drinks by the glass only to its bonafide members within the club room, may do so by paying an annual license fee of the same amount charged to retailers doing business in that county, providing that said Club shall have been an active organization for the preceding five (5) calendar years. All licensed retail vendors must make all purchases from regularly licensed wholesale vendors, licensed by the state of Montana, and whose warehouse stocks are carried within the state of Montana, and have been secured under regulations provided by the Board, and upon which such stamps as the Board may require have been affixed.

(a) Any person may make application to the Board for a license under the provisions of this Act, which application shall be accompanied by a certified check or postal money order in the amount required by this Act for such license. Such application shall be in writing and shall contain such information as is required by this Act and regulations of the Board. Upon being satisfied from such application or otherwise that the applicant is a citizen of the United States over the age of twenty-one years and has resided in the State of Montana for at least one year, and is a person of good moral character and qualified as herein provided, the Board shall issue license to such person, which license shall be at all times prominently displayed in the place of business of the licensee. The Board, in its discretion, after reasonable notice and opportunity to be heard either in person or by council, may suspend or revoke any such license for cause, and all rights of the licensee to possess or sell alcoholic beverages thereunder. When the Board shall have revoked or cancelled a license previously issued by it, the Board shall notify the licensee in writing by registered mail, to the address of such licensee, of its action, giving reasons therefor, and thereupon such licensee shall have the right of appeal to the district court of the county in which he shall reside, from the action of the Board, by filing a notice of appeal with the clerk of the district court and paying the filing fee required to commence a suit or action in the district court, which appeal must be so taken within thirty (30) days after the order made and entered by the Board. The trial shall be had before the district court upon the record presented to the Board, and upon which its decision was rendered, and there shall not be any additional evidence introduced or anything in the nature of a trial de novo. Pending decision on appeal the licensee must file a good and sufficient bond in the sum of Two Thousand Dollars (\$2,000.00) payable to the State of Montana, conditioned that he will pay all costs and be responsible for any and all violations of the law on his premises pending final disposition of the appeal.

Section 9. Any Club desiring to possess or have for sale alcoholic beverages by the glass only, under the provisions of this Act, shall make application to the Board for a permit so to do, accompanied by the license fee herein prescribed. Upon being satisfied from such application, or otherwise, that such applicant is qualified as herein provided, the Board shall issue such license to such Club, which license shall be at all times prominently displayed in the Club premises. The Board or any duly authorized representative thereof shall have the right at any time to make an examination of the premises of such Club, and of all other retail and wholesale dealers to check the alcoholic beverages being kept or sold in such Club or by other retailers and as to whether the law is being complied with.

Section 10. Any person operating any railroad car or train, or other vehicle as a common carrier for the transportation of passengers, desiring to sell alcoholic beverages by the glass only, under the provisions of this Act, shall first apply to the Board for a permit so to do, accompanying the application with the license fee herein prescribed. Upon being satisfied from said application or otherwise that the applicant is qualified under the provisions of this Act, the Board shall issue a license for the sale of alcoholic beverages by such carrier, which shall at all times be prominently displayed in the car, or other vehicle operated by the applicant, wherein alcoholic beverages are served. Upon the payment of the one license fee herein required to be paid by carriers as retail distributors, duplicates thereof shall be provided by the Board to be posted in the different cars operated within the State under the one license. The Board shall have the right at any time to make an inspection of the cars, or other vehicles operated by any person in this State, to ascertain whether this Act is being strictly complied with, and if not, the Board is authorized and empowered to cancel such license. It shall be unlawful for any such common carrier to sell alcoholic liquors or beverages to any person under the age of twenty-one years or who may appear to be in an intoxicated condition.

Section 11. No person, firm, association, co-partnership, or corporation shall be granted more than one license in any one year; nor shall any person, firm, association, co-partnership, or corporation maintaining more than one store in the state obtain a license for more than one of said stores, and that the said store having the liquor license must make all deliveries and take all orders for liquor from the said store, and no store also owned by any person, firm, association, co-partnership, or corporation and having no liquor license are hereby prohibited from taking any orders or making any deliveries of liquor from any of the said stores so owned and having no liquor license for said stores. Nor may any of the said stores having no liquor license and owned by any person, firm, association, co-partnership, or corporation take orders for the sale or delivery for liquor to be transferred for sale or delivery to a store having a liquor license and also owned by the same person, firm, association, co-partnership or corporation; penalty for violation hereof shall be that as set down in section twenty-two of this Act.

Section 12. No licensee hereunder shall exhibit or display, or permit to be exhibited or displayed in or on the licensed premises, the word "Saloon," "Bar," "Barroom," nor shall any licensee cause to be erected any obstruction which will prevent a clear view of the building from the street.

Section 13. No alcoholic liquors or beverages shall be sold, offered for sale, or given away upon any premises licensed to sell alcoholic liquors or beverages hereunder at retail for on-premises consumption during the following hours:

(a) Sunday, from two a. m. to one p. m.; or any other day between two a. m. and eight a. m.  
(b) On any day of a general or primary election during the hours when the polls are open; excepting school and bond elections. When any city or unincorporated town has any ordinance further restricting the hours of sale of alcoholic beverages, such restricted hours shall be the hours during which the sale of alcoholic beverages at retail for on-premises consumption shall not be permitted within the jurisdiction of such city or town.

Section 14. No retail license shall be granted for any premises which shall be on the same street or avenue and within three hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship; the measurements to be taken in a straight line

from the center of the nearest entrance of such school, church, synagogue or other place of worship to the center of the nearest entrance of the premises to be licensed; except, however, that no license shall be denied because such restriction may apply to any premises so located which were maintained as a bonafide hotel, restaurant, beverage parlor or club, on or prior to January 1, 1935.

Section 15. All licenses issued in any year shall expire on the 31st day of December at midnight of such year. Nothing in this Act contained shall in any manner be construed so as to prohibit or prevent cities from enacting ordinances licensing, limiting and regulating the liquor traffic, notwithstanding the fact that the persons conducting such places have obtained a license from the State Board; the only restriction hereby imposed being that such regulatory license imposed by any city shall be reasonable, and not in excess of the amount imposed by this Act; and provided further, that any retail distributor of alcoholic liquor in any county within ten miles of the corporate limits of any city shall be required to pay the state double the amount prescribed for other retail dealers.

Section 16. The Board shall require the licensee to file with it, a corporate surety bond to the State of Montana, in the penal sum of One Thousand and no/100 dollars (\$1,000.00), executed by a surety company licensed to do business in the State of Montana and approved by a district judge of such county as to form and sufficiency; or the licensee may deposit with the Board cash in a like amount, conditioned that such licensee will not suffer or permit any violation of the provisions of this Act on the licensed premises, and that all fines and penalties which shall be assessed against the licensee during the time the license shall be in effect will be paid together with all costs taxed or allowed in any action or proceeding brought or instituted for a violation of any of the provisions of this Act.

Section 17. Any person desiring to obtain employment as a dispenser of alcoholic beverages under the provisions of this Act, must obtain an annual permit so to do, from the Board. A written application therefor shall be in such form, and contain such information as the Board may prescribe. A fee of five dollars (\$5.00) shall accompany such application. The Board, after being satisfied that such applicant is a person of good moral character, and 21 years of age or older, and otherwise qualified to dispense and sell alcoholic beverages, shall issue to such applicant, a permit so to do in the form of a printed card. Said applicant must, upon receipt of said printed permit, sign his name thereto and must keep the same in his possession at all times while employed in the dispensing and selling of alcoholic beverages. On demand of any duly appointed officer, agent or inspector of the Board, such permittee must exhibit his said permit. No licensee hereunder shall employ any person to dispense or sell alcoholic beverages upon or in the premises of such licensee who has not been granted the aforesaid permit by the Board, nor shall any minor be employed in any capacity upon the premises where alcoholic beverages are offered for sale.

Section 18. No retail licensee shall sell, deliver or give away, or cause or permit to be sold, delivered or given away, any alcoholic beverages to:

1. Any minor, actually or apparently under the age of twenty-one years.
2. Any intoxicated person, or any person actually or apparently under the influence of intoxicating liquor;
3. An habitual drunkard;
4. An interdicted person.

Section 19. No person holding any license hereunder shall knowingly employ for the purpose of serving or selling alcoholic beverages any person who is given to the excessive drinking of alcoholic beverages, or person who has been convicted of a violation of this Act.

Section 20. Any licensee, or his agent, servant or employee, who shall sell or serve alcoholic beverages to an intoxicated person, an habitual drunkard, or to any person under twenty-one years of age, shall for a first offense be punishable with a fine not exceeding One Hundred Dollars (\$100.00) or be imprisoned not exceeding thirty (30) days, or both; and for a second offense shall be punishable with a fine not exceeding Five Hundred Dollars (\$500.00), or by imprisonment not exceeding six (6) months, or both, and in addition thereto such employee's working permit shall be revoked, and he shall not thereafter be employed in or about any premises in Montana wherein alcoholic beverages are sold or kept for sale. Any licensee who shall knowingly employ a person who has been convicted of the above mentioned offense, shall himself be guilty of a misdemeanor and upon conviction shall be fined not exceeding Three Hundred Dollars (\$300.00), or imprisonment not exceeding ninety (90) days, or both; and in addition thereto it shall be mandatory that the Board revoke his license.

Section 21. If any licensee, his agent, servant or employee shall be in doubt regarding the age of any customer, such customer shall not be served with alcoholic beverages unless he or she shall openly avow and affirm in writing upon forms supplied by the Board, that he or she has reached the age of twenty-one years, and if such customer should then be served with alcoholic beverages in the licensed premises, and it should subsequently be determined that he or she had not attained the age of twenty-one years when so served with alcoholic beverages, such customer shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding One Hundred Dollars (\$100.00), or be imprisoned not exceeding thirty (30) days, or both.

Section 22. Any person who manufactures alcoholic beverages, or sells or offers such for sale in violation of this Act, shall for a first offense be fined not less than Five Hundred Dollars (\$500.00), or be imprisoned not less than six (6) months, or both; and for a second offense shall be fined not less than One Thousand Dollars (\$1,000.00), and be imprisoned not less than one year; and upon the third or subsequent offense, the penalty shall be imprisonment of not less than two (2) years.

Section 23. No employee, officer or owner of a distillery, winery or brewery shall be granted a license to sell intoxicating beverages at retail.

Section 24. Any employee, officer or owner of a distillery, winery or brewery who shall sell alcoholic beverages by the glass on the licensed premises, shall be fined not less than Five Hundred Dollars (\$500.00) and not more than One Thousand Dollars (\$1,000.00), or imprisonment not less than ninety (90) days and not more than six (6) months, or both such fine and imprisonment.

Section 25. A distiller's license shall authorize the holder thereof to operate a distillery for the manufacture of alcohol or spirits by distillation or redistillation at the premises specifically designated in the license. Such a license shall also authorize the sale in bulk by such licensee from the licensed premises of the products manufactured under such license to any duly authorized person to whom and points where alcoholic liquor may legally be sold for sale and consumption outside the State.

Section 26. Any person may apply to the Board for a distiller's license as herein provided, which application shall be in writing and verified, and shall contain such information as the Board shall require. Such application shall be accompanied by a certified check or postal money order for the amount required by this Act for such license. If the Board shall deny the application it shall return the fee to the applicant. If the Board shall grant the application, it shall issue a license in such form as shall be by it prescribed.

#### PART III

#### OWNERSHIP OF MONIES ACQUIRED BY THE BOARD, FINANCING AND ACCOUNTING, AND THE DISTRIBUTION OF PROFITS.

Section 27. All moneys acquired, administered, possessed or received by the Board and all

profits earned in the administration of this Act, shall be the property of the State and all expense, debts and liabilities incurred by the Board in connection with the administration of this Act, shall be paid by the Board exclusively from the moneys received by the Board.

Section 28. The Board shall, commencing December 1, 1936, make and file with the State Examiner quarterly statements of account showing accurately and correctly the cost of administration and enforcement of this Act, the money expended and the net profits from licenses and taxes, and shall annually file with the State Examiner a like statement of account for the business of the year ending on the 31st day of December in each year, which shall contain:

(a) General information and remarks as to the working of the law within the state;

(b) Every annual report made under this section shall be forthwith laid before the Legislature if the Legislature is then in session, and if not then in session, shall be laid before the Legislature within fifteen days after the opening of the next session.

(c) The books and records of the Board shall at all times be subject to examination and audit by the State Examiner or his duly authorized agents or employees.

Section 29. All moneys received from the sale of license fees or fines, penalties, profits or otherwise, arising in the administration of this Act, shall be paid to the Board, and the Board is hereby authorized to make such expenditures from such funds as from time to time becomes necessary in the administration of this Act, as hereinafter provided, including in such expenditures all salaries, expenses of officers, agents, and employees, and all proper expenditures incurred in acquiring property and merchandise in connection with the administration of this Act.

Section 30. The accounts of the Board shall be made to the 31st day of December in each year, and at such other times as may be required by the State Examiner; and in every case the Board shall prepare a balance sheet and statement of profits and losses and submit the same to the State Examiner in such form as he shall prescribe.

Section 31. At the end of each and every quarter, upon making and filing such statement of account with the State Examiner, the Board shall be required to file a copy thereof with the State Treasurer and to make remittance to the State Treasurer of the profits accumulated in the administration of the Act to the date of such accounting less an amount not exceeding ten per centum of such profits, which percentage shall be held and kept by the Board as a reserve fund to meet and pay current expenses incident to the administration of the Act, the balance to be paid to the State Treasurer and by him apportioned and allocated as follows: One-sixth thereof shall be credited to the general fund of the State; one-sixth thereof shall be credited to the common school interest and income fund of the state; one-sixth thereof shall be apportioned to the State Board of Agriculture, and shall constitute a separate fund of the State Board of Agriculture, and shall be used by it solely and only for out of state advertising of Montana; one-sixth thereof shall be by the Treasurer transmitted to the several counties of the State in proportion to the amount of license fees, profits, fines, and penalties collected under the provisions of the Act in each county, to be by the County Treasurer held to the credit of the county poor fund to be used exclusively for the payment of old age pensions and the remaining one-third shall be by the Treasurer transmitted to the cities of the several counties of the state in proportion to the amount of license fees, profits, fines, and penalties collected under the provisions of this Act in such cities of the several counties and to be used by them as may be deemed necessary.

Section 32. There shall be a tax of ten (10c) per pint or fraction thereof on all liquor exceeding six (6) percent alcohol by volume sold in the state, except wines containing more than six (6) per cent alcohol by volume but not exceeding twenty-one (21) per cent, shall be taxed at the rate of five cents (5c) per pint or fraction thereof, and each package shall have the alcoholic content plainly marked thereon. Stamps for this purpose shall be supplied by the Board to the regularly licensed wholesalers of the state upon demand, and such licensed wholesalers shall cause all such taxes to be paid and stamps to be affixed before said liquor is sold by them to regularly licensed retailers; and said licensed wholesalers must keep such books and records as the Board may require. Penalty for failure to comply with this provision shall be the same as Section Twenty-Two of this Act. Nothing in this Act contained shall prevent the Legislature from allocating the funds derived from this tax to various funds, but until such legislative action has been taken, all funds shall be distributed the same as set forth in Section Thirty-One, Part Three of this Act.

#### PART IV

##### PROHIBITIONS, INTERDICTION, DEFINITIONS, PENALTIES AND PROCEDURE.

Section 33. Except as provided in this Act, no person shall, within the State, keep for sale or sell any alcoholic liquor whatsoever, moonshine whiskey and distillations being hereby declared to be contraband and outlawed.

Section 34. No vendor of alcoholic liquors, nor licensees, or employee or servant of either, shall be permitted to sell any liquor in the State of Montana at any place other than in places which have been regularly licensed for the sale of liquor; nor shall alcoholic liquors be permitted to be sold at any times other than those made permissible by the terms of this Act.

Section 35. No member or employee of the State Board of Equalization shall be directly or indirectly engaged in dealing in alcoholic liquors, whether as owner, part owner, member of a syndicate, shareholder, agent or otherwise, whether for his own benefit or in a fiduciary capacity for others.

Section 36. No member or employee of the Board or any officer or employee of the State shall solicit or receive directly or indirectly any commission, remuneration or gift whatsoever from any person or corporation having sold or intending to sell or offering to sell alcoholic liquor in the state pursuant to the terms of this Act.

Section 37. Any sheriff, peace officer, or inspector appointed under this Act, who shall find any liquor or moonshine which is kept or held by any person for sale or other disposition in violation of this Act, may forthwith seize and remove the same and the package in which the liquor is kept as evidence and upon conviction of a person for violation of the provision hereof the liquor and all packages containing the same shall be forfeited to the State of Montana, and in addition the person so violating the law shall be subject to the penalties herein prescribed.

Section 38. Except in the case of liquor given to a person under the age of twenty-one years by his parents or guardian for medicinal purposes, or administered to him by his physician or dentist for medicinal purposes or sold to him by a vendor or licensee upon the prescription of a physician, no person shall sell, give, or otherwise supply liquor to any person under the age of twenty-one years.

Section 39. Except in the case of liquor supplied to an interdicted person upon the prescription of a physician, or administered to him by a physician or dentist pursuant to this Act, no person shall procure for, sell or give to any interdicted person any liquor, nor directly or indirectly assist in procuring or supplying alcoholic liquors to any interdicted person.

Section 40. No licensee, under this Act shall:

(a) Permit drunkenness to take place on the premises where liquor is sold or offered for sale pursuant to this Act; or

(b) Permit or suffer any person apparently under the influence of liquor to consume any liquor on the premises of any licensed vendor under this Act.

Section 41. No person within the state shall be permitted to exhibit or display, or permit to be exhibited or displayed, any sign or poster containing the words "bar," "barroom," "saloon," "wines," "spirits," or "liquors" or words of like import, except where Federal law specifically specifies otherwise.

Section 42. It shall be unlawful for any manufacturer, distiller, wholesaler, or distributor of alcoholic beverages, under the provision of this Act, to:

- (a) Be interested, directly or indirectly, in any premises where any alcoholic beverage is sold at retail; or in any business devoted wholly or partially to the sale of any alcoholic beverages at retail;
- (b) Make, or cause to be made, any loans to any person engaged in the manufacture or sale of any alcoholic beverage at wholesale or retail;
- (c) Make any gift or render any service of any kind whatsoever, directly or indirectly, to any person licensed under this Act which in the judgment of the Board may tend to influence such licensee to purchase the product of such manufacturer, distiller, wholesaler or distributor.
- (d) Enter into any contract with any retail licensee, whereby such licensee agrees to confine his sale to alcoholic beverages manufactured or sold by one or more such manufacturers, distillers, wholesalers or distributors. Any such contract shall be void and subject the licenses of all parties concerned, to revocation.

Section 43. No license of any kind issued by the Board shall be issued to:

- (1) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality;
- (2) A person whose license issued under this Act has been revoked for cause;
- (3) A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application;
- (4) A co-partnership, unless all of the members of such co-partnership shall be qualified to obtain a license;
- (5) A corporation if the manager or director of the premises selling liquor shall not be qualified to obtain a license under this Act;
- (6) A person whose place of business is conducted by a manager or agent unless said manager or agent possesses the same qualifications required of the licensee.
- (7) A person who has been convicted of a violation of any Federal or State law concerning the manufacture, possession or sale of alcoholic liquor, subsequent to the passage of this Act, or shall have forfeited his bond to appear in Court to answer charges for any such violation.

Section 44. No club shall be granted a license to sell alcoholic liquors containing more than four (4) per cent of alcohol by volume—

- (a) If it is a proprietary club operated for pecuniary gain;
- (b) Unless the club premises be constructed, equipped, conducted, managed and operated to the satisfaction of the Board and in accordance with this Act and the regulations made by the Board.
- (c) Unless it has been in active operation for the five preceding calendar years.

Section 45. No minor shall be allowed upon club premises licensed under the provisions of this Act, unless accompanied by parents.

Section 46. No manufacturer, distiller, wholesaler, or distributor shall sell or deliver any package containing alcoholic liquor manufactured or distributed by him, unless the same shall have affixed thereto all cancelled revenue stamps which may be required by Federal or State law, and shall also bear thereon a clear and legible label containing the name and address of the manufacturer, the kind of alcoholic liquor contained therein, the date when manufactured and the minimum alcoholic content thereof. No spirits shall contain any substance, compound or ingredient which is injurious to health or deleterious for human consumption.

#### INTERDICTION

Section 47. (1) Where it is made to appear to the satisfaction of the district court that any person residing in the State of Montana, or sojourning therein, by the excessive use of alcoholic liquors, misspends, wastes, or lessens his estate, or injures his health, or endangers or interrupts the peace and happiness of his family, the court may make an order of interdiction prohibiting the sale of liquor to him until further order of the court, a certified copy of which order shall be at once transmitted by the clerk of the court to the State Board of Equalization and through it information conveyed respecting such interdiction order to all vendors of alcoholic liquors.

(2) Every interdicted person keeping or having in his possession or under his control any liquor shall be guilty of an offense against this Act, and, upon conviction thereof, the court shall declare a forfeiture of all liquors found in his possession to be forfeited to the State of Montana.

Section 48. The court by whom an order of interdiction is made, under this Act, upon being satisfied that the justice of the case so requires, may revoke the order of interdiction by an order filed with the Board; and upon the filing of the order of revocation, the interdicted person shall be restored to all his rights under this Act, and the Board shall accordingly forthwith notify all vendors and such other persons as may be provided by the regulations.

#### DEFINITIONS

Section 49. This Act may be cited as the "State Liquor Control Act of Montana."

Section 50. The following words and phrases used in this Act shall be interpreted as follows:

- (a) "Board" shall be considered and construed to mean the "Board of Equalization";
- (b) "Club" shall mean any association of individuals for the purpose of mutual entertainment and convenience and shall include the premises occupied or used for such purpose;
- (c) "Club License" means club license granted to a club to sell alcoholic beverages under the provisions of this Act, and shall include the premises occupied or used for such purpose;
- (d) "Hotel" shall mean any place where the public may for a consideration, obtain sleeping accommodation, with or without meals;
- (e) "Interdicted Person" shall be construed to mean a person to whom the sale of liquor is prohibited by the Montana Board of Equalization or by a court, under the provisions of this Act;
- (f) "Liquor" or "Liquors" means and includes any alcoholic, spirituous, vinous, or other alcoholic liquor, which contains more than six per cent (6%) of alcohol by volume;
- (g) "Municipality" means any incorporated city, town or village, located in the State of Montana;
- (h) "Package" means any original container or containers, or receptacle or receptacles not exceeding one gallon liquid measure used for holding liquor; whereon Federal or State Revenue Stamps have not been broken.
- (i) "Public Place" includes any place, building, or conveyance to which the public has or is permitted to have access and any place of public resort; also all establishments retailing alcoholic liquors under license as herein provided;
- (j) "Regulations" means regulations made by the Montana Board of Equalization.
- (k) "Sale" and "Sell" includes exchange, barter, and traffic; also it shall be construed to include the selling or supplying or distributing, by any means whatsoever, of spirituous or vinous liquor by whatever name used to describe it, by any person, society, association, or club, whether incorporated or unincorporated, and whether heretofore or hereafter formed or incorporated.
- (l) "Spirits" means any beverage which contains alcohol obtained by distillation, or other substances in solution such as brandy, rum, whisky and gin;
- (m) "Vendor" means any person licensed to sell liquor under the terms of this Act;
- (n) "Licensee" shall mean a person, club, hotel or railroad selling liquors at retail or wholesale; and whenever the word "licensed vendor" may appear in this Act it means licensee;

(o) "Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits (grapes, apples, etc.); or other agricultural products containing sugar, honey, milk, etc.;

(p) "Persons" shall include every individual, co-partnership, association, corporation, hotel, restaurant, or club and all licensed retailers of liquor, whether conducting the business singly or collectively;

(q) "Other Vehicles" shall be construed to mean passenger carrying aeroplanes, boats and busses engaged in either intrastate or interstate commerce;

(r) "Retailer" means any person, club, hotel, railroad or other vehicle selling liquor at retail, and he is further allowed to make any sale to one person of the amount not exceeding five (5) gallons at a single purchase, unless otherwise restricted by Federal law.

(s) "Wholesaler" means any person, firm, co-partnership, corporation, or agent engaged in the business of selling liquor at wholesale to regularly licensed retail vendors, and to no others. There shall be no restrictions in this act upon the amount of any single sale of any wholesaler to any regularly licensed retail vendor, unless otherwise restricted by Federal law. See Section 22 for penalty for the violation hereof. And said wholesaler must confine his sales to original packages only, and upon which Federal and State stamps have not been broken, and in no case shall said package exceed one gallon liquid measure.

(t) "Distillery" means and includes any place or premises wherein any spirituous liquors are manufactured for sale, containing more than four per cent (4) by volume of alcohol.

#### PENALTIES AND PROCEDURE

Section 51. Every person who violates any provision of this Act or the regulations made hereunder, shall be guilty of a misdemeanor unless other punishment is herein prescribed. And as to all penalties prescribed by this Act where punishment exceeds six months imprisonment or a fine of Five Hundred Dollars or both, jurisdiction is vested in the district court.

Section 52. Where an offense against this Act is committed by a corporation, the officer or agent of the corporation in charge of the premises in which the offense is committed shall prima facie be deemed to be a party to the offense so committed and shall be personally liable to the penalties prescribed for the offense as a principal offender, but nothing in this section shall relieve the corporation or the person who actually committed the offense from liability therefor.

Section 53. Upon information on oath by any inspector appointed under this Act or by any peace officer showing probable cause to believe that liquor is unlawfully kept or had, or kept or held for unlawful purposes, in any building or premises, it shall be lawful for any justice by warrant under his hand to authorize and empower the inspector or peace officer, or any other person named therein, to enter and search the building or premises and every part thereof; and for that purpose to break open any door, lock, or fastening of the building or premises or any part thereof, or any closet, cupboard, box, or other receptacle therein which might contain liquor.

Section 54. Whenever an inspector or any peace officer in making or attempting to make a search under and in pursuance of authority of law, shall find on any premises or in any motor vehicle, motor car, automobile, vessel, boat, canoe or conveyance of any description, liquor which is unlawfully kept or had, or kept or held for unlawful purposes contrary to the provision of this Act, he shall forthwith seize the liquor and packages in which the same is contained, and the premises, motor vehicle, motor car, automobile, vessel, boat, canoe or conveyance in which such liquor is found; and upon conviction of the occupant or person in charge of the premises, vehicle, motor car, automobile, vessel, boat, canoe or conveyance, in which such liquor is found; and upon conviction of the occupant or person in charge of the premises, vehicle, motor car, automobile, vessel, boat, canoe or conveyance, or of any other person, for having or keeping such liquors contrary to any of the provisions of this Act in any such premises, vehicle, motor car, automobile, vessel, boat, canoe or conveyance, the Court in which the conviction of any such person is had, and in addition to the sentence imposed under authority of law, declare the liquor or any part thereof so seized, and the package in which the same is contained, to be forfeited to the State of Montana; and the court may in and by decree, further declare the vehicle, motor car, automobile, vessel or boat, canoe, or conveyance so seized to be forfeited to the State of Montana, and the court may order any premises so violating the law abated for a period of one year.

Section 55. Where liquor has been seized by an inspector or peace officer under any of the provisions of this Act, under such circumstances that the inspector or peace officer is satisfied that liquor was had or kept contrary to any of the provisions of this Act, he shall retain the same and the package in which the same was had or kept.

(2) If within thirty (30) days from the date of its seizure no person by notice in writing, filed with the Board, claims to be the owner of the liquor, the liquor and all packages containing the same shall ipso facto be forfeited to the State of Montana, and shall forthwith be delivered to the Board.

(3) If within the said time any claimant appears, it shall be incumbent upon him at a hearing before the Board to prove his claim and his right under the provisions of this Act to the possession of such liquor and packages to the satisfaction of the Board, and on failure so to do, the liquor and packages shall ipso facto be forfeited to the State of Montana.

Section 56. In every case in which a court makes any order for the forfeiture of liquor under any of the provisions of this Act, and in every case in which any claimant to liquor under the provisions hereof, fails to establish before the Board his claim and right thereto, the liquor in question and the packages in which the liquor is kept shall forthwith be delivered to the Board and become the property of the State. All forfeited liquor shall be destroyed under competent supervision as may from time to time be directed by the Board.

(2) In every case in which liquor is seized by a peace officer it shall be his duty to forthwith make or cause to be made to the Board a report in writing, of the particulars of such seizure.

Section 57. For the purpose of obtaining information concerning any matter relating to the administration or enforcement of this Act, the Board or any person appointed by it in writing for the purpose may inspect the freight and express books and records, and all waybills, bills of lading, receipts and documents in the possession of any railway company, express company, or other common carrier doing business within the State containing any information or record relating to any goods shipped or carried or consigned or received for shipment or carriage within the State.

Section 58. Every railway company, express company, or common carrier, and every officer or employee of any such company or common carrier, who neglects or refuses to produce and submit for inspection any book, record, or document referred to in the next preceding section when requested to do so by the Board or by a person appointed by it shall be guilty of an offense against this Act.

Section 59. In describing the offense respecting the sale or keeping for sale or other disposal of liquor, or the having, keeping, giving, purchasing or the consumption of liquor in any information, summons, commitment, warrant, or proceeding under this Act, it shall be sufficient simply to state the sale or keeping for sale or disposal of liquor or of having, keeping, giving, purchasing, or consuming of liquor contrary to this Act, without stating the name or kind of such liquor or the price paid therefor.

Section 60. The description of any offense under this Act, in the words of the Act or in any words of like import, shall be sufficient in law.

Section 61. In any prosecution under this Act, or the regulations made thereunder, production by a police officer, policeman, constable, inspector, county attorney or other peace officer, of a certificate or report signed by or purporting to be signed by a United States or State chemist or analyst as to the analysis or ingredients of any liquor or other fluid or and preparation, compound, or substance, such certificate or report shall be prima facie evidence of the facts stated in such certificate or report.

Section 62. The court trying a case shall, in the absence of proof to the contrary, be at liberty to infer that the liquor in question is intoxicating from the fact that a witness described it as intoxicating, or by a name which is commonly applied to an intoxicating liquor.

Section 63. A license shall be purely a personal privilege, good for not to exceed one year after issuance unless sooner revoked as in this Act prescribed; provided it may be assigned as above prescribed. Such license shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee, provided that executors or administrators of the estate of any deceased licensee, and the trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquors, may continue the business of the sale or manufacture of alcoholic liquor under order of an appropriate court, and may exercise the privileges of the deceased or insolvent or bankrupt licensee after the death of such decedent, or such insolvency or bankruptcy until the expiration of such license, but not longer than six months after the death, bankruptcy, or insolvency of such licensee.

Section 64. Any licensee may renew his license at the expiration thereof, provided he is then qualified to receive a license and the premises for which such renewal license is sought are suitable for such purposes; and provided further that the renewal privilege herein provided for shall not be construed as a vested right which shall in any case prevent the Board from decreasing the number of licenses to be issued.

#### PART V. LOCAL OPTION LAW.

Section 65. Upon application by petition, signed by two-thirds of the voters who are qualified to vote for members of the Legislative Assembly in any county in the State, the Board of County Commissioners must order an election to be held at the place of holding elections for county officers, to take place at the next general election after the reception of such petition, to determine whether or not any spirituous or malt liquors, wine, or cider, or any intoxicating liquor or drinks may be sold within the limits of the county. The Board of County Commissioners must determine on the sufficiency of the petition presented from the roll of registered electors of the territory affected.

Section 66. The notice of election must be published once a week for four weeks in all newspapers in the county where the election is to be held.

Section 67. The County Clerk must furnish the ballots to be used at such election, as provided in the general election law, which ballot must contain the following words: "Sale of Intoxicating Liquors, Yes;" "Sale of Intoxicating Liquors, No;" and the elector in order to vote must mark an "X" opposite one of the answers.

Section 68. The polling places must be established, the judges and other officers to conduct the election must be designated, and the election must be held, canvassed and returned in all respects in conformity to the laws of the state.

Section 69. If a majority of the votes cast are "Sale of Intoxicating Liquor, No," the Board of County Commissioners must publish the result once a week for four successive weeks in the papers in which the notice of election was given. The provisions of this Act shall take effect on the first day of January of the following year, and it shall thereupon be unlawful to sell or import any liquor in such county under penalty of a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for a period not exceeding six (6) months, or both such fine and imprisonment.

Section 70. No election shall be held in the same county oftener than once in four years, nor shall any such election be held before 1940, as the election adopting this Act shall be construed to be the first election hereon.

Section 71. If a majority of the votes cast at the election are "Sale of Intoxicating Liquor, No," it shall not be lawful for any person within the county in which the vote was taken to sell, either directly or indirectly, or give away or furnish to any person, any alcoholic, spirituous, malt, or intoxicating liquors.

Section 72. Any election held under the provisions of the Act may be contested in the same manner as provided by the general election laws.

#### PART VI.

##### GENERAL AND MISCELLANEOUS PROVISIONS.

Section 73. The purpose and intent of this Act is to prohibit transactions in liquor which take place in whole or in part within the State of Montana except under state control as specifically provided by this Act, and every section and provision of this Act shall be construed accordingly. The provisions of this Act deal with the policy of the State in the importation, sale and disposition of alcoholic liquor into and within the State through the instrumentality of the Board and not otherwise.

Section 74. The Board is hereby authorized to incur indebtedness in the administration of this Act for necessary expenses and the acquisition of necessary property and merchandise, provided, however, that the total amount of outstanding indebtedness shall not at any time exceed the sum of Five Thousand Dollars (\$5,000.00), and provided further that any indebtedness so incurred by the Board shall be paid solely out of the moneys arising by way of profit in the administration of the Act.

Section 75. This Act is not intended to interfere with the regulatory measure providing for the sale of beer and other fermented beverages containing less than four (4) per cent of alcohol by volume; except said regulatory measure shall hereinafter mean and include beer and other alcoholic beverages containing six (6) per cent alcohol by volume or less; it being further declared to be the intention of this Act that it shall be administered and applied in conjunction with the Act regulating the sale and distribution of beer and other fermented beverages containing less than four (4) per cent of alcohol by volume. But persons licensed under this Act shall have the right to sell beer of any alcoholic content without acquiring any additional license other than prescribed in this Act, so to do.

Section 76. In case of conflict between this law and Federal law, the Federal law shall be mandatory over the State law.

Section 77. If any section, clause, sentence or provision in this Act shall be found unconstitutional or otherwise invalid, such unconstitutionality or invalidity of such clause shall not be deemed to invalidate any other portion of this Act.

Section 78. That Chapter 105 of the Laws of 1933, as amended by Chapter 57 of the Laws of the Extraordinary Session of 1933-34, and all other Acts and parts of Acts in conflict herewith are hereby repealed.

Section 79. Any property or stock acquired by the State under the provisions of the liquor law in force previous to the passage of this Act shall be disposed of by the Board in the manner deemed most advisable and profitable for the State, and the profits derived therefrom shall be distributed as set forth in Section Thirty-One of this Act.

Section 80. This Act shall be in full force and effect on the first day of January, 1937, after its passage and approval by the Electorate of the State of Montana.

THE NUMBER AND FORM IN WHICH THE QUESTION WILL  
APPEAR UPON THE OFFICIAL BALLOT AT THE  
GENERAL ELECTION NOVEMBER 3, 1936,  
IS AS FOLLOWS:

## Proposed Petition for Initiative No. 39

"An Act requiring licenses for the opening or establishment, operation and maintenance of stores in this state, the classifying of such stores, prescribing the license fees to be paid therefor and the disposition thereof into the state old age assistance fund, and the powers and duties of the State Board of Equalization in connection therewith; and prescribing penalties for the violation thereof."

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For providing old age pension funds by licensing chain stores.

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Against providing old age pension funds by licensing chain stores.

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## INITIATIVE MEASURE

"An Act requiring licenses for the operation, maintenance, opening or establishment of stores in this state, the classifying of such stores, prescribing the license and filing fees to be paid therefor and the disposition thereof, and the powers and duties of the State Board of Equalization in connection therewith; and prescribing penalties for the violation thereof."

### BE IT ENACTED BY THE PEOPLE OF THE STATE OF MONTANA:

Section 1. That from and after the first day of January A. D. 1937, it shall be unlawful for any person, firm, corporation, association or co-partnership, either foreign or domestic, to open, establish, operate or maintain any store or stores in this state without first having obtained a license to do so from the State Board of Equalization, as hereinafter provided.

Section 2. Any person, firm, corporation, association, co-partnership or group desiring to open, establish, operate or maintain a store in the State of Montana shall apply to the State Board of Equalization for a license to do so. The application shall be made upon a form which shall be prescribed and furnished by the State Board of Equalization, and shall set forth the name of the owner, manager, trustee, lessee, stock-holders, receiver or other persons desiring said license; the name of such store; the location, including street number; and all such other facts as the State Board of Equalization may require.

If the applicant desires to open, establish, operate or maintain more than one such store, he shall make a separate application for a license to operate, maintain, open, or establish each such store, but the respective stores for which the applicant desires to secure licenses may all be listed upon one application blank.

Each such application shall be accompanied by a filing fee of fifty cents (50c) and by the license fee as prescribed in sections five (5) and six (6) of this Act.

Section 3. As soon as practicable after the receipt of any such application, the State Board of Equalization shall carefully examine such application to ascertain whether it is in proper form and contains the necessary and requisite information. If, upon examination, the State Board of Equalization shall find that such application is not in proper form and does not contain the necessary and requisite information, it shall return such application for correction.

If an application is found to be satisfactory, and if the filing and license fee, as herein prescribed, shall have been paid, the State Board of Equalization shall issue to the applicant a license for each store for which an application for a license shall have been made.

Each licensee shall display the license so issued in a conspicuous place in the store for which such license was issued.

Section 4. All licenses shall be so issued so as to expire upon the thirty-first day of December of each calendar year. On or before the first day of January of each year, every firm, person, corporation, association, co-partnership having a license, shall apply to the State Board of Equalization for a renewal license for the calendar year next ensuing. All applications for a renewal shall be made upon forms which shall be prescribed and furnished by the State Board of Equalization.

No license shall lapse prior to the thirty-first day of January of the year next following the year for which the license was issued, and if, by such thirty-first day of January, an application for a renewal license has not been made, the State Board of Equalization shall notify such delinquent license holder thereof, by registered mail, and if application is not made for and a renewal license issued on or before the last day of February next ensuing, the former license shall lapse and become null and void.

Each such application for a renewal license shall be accompanied by a filing fee of fifty cents (50c) and by the license fee as prescribed in sections five and six of this Act.

Section 5. Every person, firm, corporation, association, co-partnership or group opening, establishing, operating or maintaining one or more stores or mercantile establishments, within this State, under the same general management, supervision or ownership, where a stock of goods is maintained during any portion of the year, regardless of whether said stock is held by ownership, consignment, agency or any other means, shall pay the license fee herein-after prescribed for the privilege of opening, establishing, operating or maintaining such stores or mercantile establishments, provided that the members of any group, association or consumer co-operative composed of independent units owning their own business and grouped or associated together by agreement or otherwise for the purpose of purchasing or selling merchandise or service for the mutual benefit of the members shall not be grouped for computing the license fee to be paid by such person, firm, corporation, association, or co-partnership or by such wholesaler or retailer under this act, but such units or members shall be taxed as individual units; and provided further that the term store shall not mean or include for the purpose of computing the license fee prescribed in this section the following types of business, but that they shall be licensed under the prescribed fees in Section Six (6) of this Act; gasoline filling stations and/or gasoline distributing plants where seventy-five per cent (75%) of the gross business is in petroleum products exclusively; or lumber yards where seventy-five per cent (75%) of the gross business is in building materials exclusively; or grain elevators where seventy-five per cent (75%) of the gross business is dealing in grains and seeds exclusively; and those businesses in which the sale of goods, wares, and merchandise is less than twenty-five per cent (25%) of the gross business.

The license fee herein prescribed shall be paid annually, and shall be in addition to the filing fees prescribed in Sections Two (2) and Four (4) of this Act.

The annual license fees herein prescribed shall be as follows:

1. Upon one store the annual license fee shall be Two Dollars and Fifty Cents (\$2.50).
2. Upon the second store, the annual license fee shall be Twenty-five Dollars (\$25.00).
3. Upon the third store, the annual license fee shall be Seventy-five Dollars (\$75.00).
4. Upon the fourth store, the annual license fee shall be Two Hundred and Twenty-five Dollars (\$225.00).
5. Upon the fifth store, the annual license fee shall be Six Hundred and Seventy-five Dollars (\$675.00).
6. Upon the sixth store, and upon each store in excess of six, the annual license fee shall be One Thousand Dollars (\$1,000.00).

Section 6. Every person, firm, corporation, association, co-partnership or group opening, establishing, operating or maintaining one or more stores or mercantile establishments within this State under the same general management, supervision or ownership, where a stock of goods is maintained during any portion of the year, regardless of whether said stock is held by ownership, consignment, agency or any other means, who deal in petroleum products, building materials and grain elevators, and those businesses in which the sale of goods, wares and merchandise is less than 25% of the gross business, subject to the following restrictions: Gasoline filling stations and/or gasoline distributing plants where 75% of the gross business is in petroleum products exclusively; those businesses in which the sale of goods, wares and merchandise is less than 25% of the gross business; lumber yards where 75% of the gross business is in building materials exclusively; grain elevators where 75% of the gross business is in grains and seeds exclusively, shall pay the annual license fee prescribed in this Section for the privilege of opening, establishing, operating or maintaining such stores or mercantile establishments, but shall not be required to pay the license fees prescribed in Section 5 of this Act.

The annual license fee herein prescribed shall be paid annually, and shall be in addition to the filing fees prescribed in Sections two (2) and four (4) of this Act.

The annual license fees herein prescribed shall be as follows:

1. Upon one store the annual license fee shall be two dollars and fifty cents (\$2.50).
2. Upon the second store, the annual license fee shall be five dollars (\$5.00).
3. Upon the third store, the annual license fee shall be ten dollars (\$10.00).
4. Upon the fourth store, the annual license fee shall be fifteen dollars (\$15.00).
5. Upon the fifth store, the annual license fee shall be twenty dollars (\$20.00).
6. Upon the sixth store, and each store in excess of six, the annual license fee shall be twenty-five dollars (\$25.00).

Section 7. Each and every license issued prior to the first day of July of any year shall be charged for at the full rate, and each and every license on or after the first day of July of any year shall be charged for at one-half of the full rate, as prescribed for in Sections five (5) and six (6) of this Act.

Section 8. The provisions of this Act shall be construed to apply to every person, firm, corporation, co-partnership or group, either domestic or foreign, which is controlled or held in any degree with others by majority stock ownership or ultimately controlled or directed by one management or association of ultimate management.

Section 9. The term "store" as used in this Act shall be construed to mean and include any store or stores or any mercantile establishment or establishments which are owned, operated, maintained or controlled by the same person, firm, corporation, association, co-partnership, or group, either domestic or foreign, in which goods, wares or merchandise of any kind are sold, either at retail or wholesale; and subject to the classification contained in Sections five (5) and six (6) of this Act.

Section 10. Any person, firm, corporation, association, co-partnership or group who shall violate any of the provisions of this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum of not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00), and each and every day that such violation shall continue shall constitute a separate and distinct offense.

Section 11. The State Board of Equalization is hereby authorized to employ such clerical and field assistance as may be found necessary to carry out and to administer the provisions of this Act. All money collected under the provisions of this Act, less the expenses incurred in the administration of this Act, shall be paid into the State Treasury, monthly, and shall be added to and constitute a part of the State Old Age Assistance Fund, as prescribed in Chapter 170, Session Laws of 1935.

Section 12. The provisions of this Act are several, and if any section, provision, word or clause of this Act shall be declared invalid or unconstitutional for any reason, such invalidity or unconstitutionality shall not affect or impair any of the remaining portions of this Act. It is hereby declared as the intent of the sovereign people of Montana that this Act would have been adopted had such invalid portion not been included herein.

Section 13. All acts and parts of acts in conflict herewith are hereby repealed, and expressly repealing Chapter 155 Session Laws of 1933.

Section 14. This Act shall be in full force and effect from and after the 1st day of January, 1937.

